

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT OF THE STATE OF FLORIDA,
IN AND FOR ST. LUCIE COUNTY

JACKIE WEBB, individually,
and A. W., a minor by and through
Jackie Webb, his natural father, guardian
and next of friend,

Complainants

562009CA005387

JUDGE MCMANUS

vs.

Case No. *Wanner*

FLORIDA DEPARTMENT OF CHILDREN
AND FAMILY SERVICES, and
UNITED FOR FAMILIES, INC.

Defendants

COMPLAINT

The Complainants, Jackie Webb, and A.W., a minor, sues the Defendants, Florida Department of Children and Family Services and United for Families, Inc., jointly, individually and severally for money damages and for cause of action would state.

[I]
JURISDICTION

[1] This is a suit for money damages that exceeds the sum of Fifteen Thousand Dollars exclusive of interest and cost.

[2] All prerequisites to the suit have been completed by the Complainants in that the Complainants served the statutory notice letter on the Defendant, Florida Department of Children and Family Services by certified U. S. mail on November 3, 2008, more than one hundred and eighty (180) days prior to the filing of this complaint. [said letter and

notice is hereby attached to this complaint as exhibit one (1) and all terms are incorporated herein.]

[3] All acts complained of in the Complaint occurred in St. Lucie County, Florida.

[II] **PARTIES**

[4] The Complainant, Jackie Webb, is a citizen of the United States and a resident of the State of Florida. He is the natural father of the minor complainant A. W. [The complainant will be referred to in subsequent portions of this complaint as Webb.]

[5] The Complainant, A. W., a minor child, and a citizen of the United States and a resident of the State of Florida. [The minor complainant will be referred to in subsequent portions of this complaint as A. W.]

[6] The Defendant, Florida Department of Children and Family Services is a duly appointed agency of the State of Florida dedicated to the maintenance of the foster care system in the State of Florida for abused and abandoned children. [The Defendant will be referred to in subsequent portions of this complaint as DCF.]

[7] The Defendant, United For Families, Inc., is a corporation organized and existing under the laws of the State of Florida and is the contract agent for DCF.

[III] **FACTS COMMON TO ALL CLAIMED CAUSES OF ACTION**

[8] The complainants reiterate all allegations contained in paragraphs one (1) through seven (7) in the subsequent portions of Count III as if included herein verbatim.

[9] On or about February 9, 2005, A. W. was born prematurely to Latashia Williams at St. Mary's Medical Center in West Psalm Beach, Florida.

[10] Prior to this birth, Webb and Williams had a sexual relationship and Williams advised Webb the child was his natural child.

[11] A. W. weighed only 0.580 Kg. at the time of birth and was kept in the hospital from the date of birth until the last of March 2005.

[12] Webb visited the child on a daily basis during this period of time and advised all hospital personal of his identity and his address which, at that time, was 3357 S. W. Mcullum in Port St. Lucie, Florida.

[13] Due to the possible cocaine addiction of the mother and the fact her other children were in the foster care system under dependency status, DCF took custody of A. W. when he was released from the hospital and filed a dependency action under the statutes of the State of Florida.

[14] The above styled dependency action was filed with the Circuit Court in and for St. Lucie County, Florida and bore docket number 562005DP000605.

[15] The case was assigned by DCF to the Defendant United For Families, Inc. who was under contract with DCF and who acted as their agent.

[16] The case was then assigned to Mark A. Holloway, a dependency case manager, who performed all the duties subsequently stated in this Complaint as the agent, servant and employee of the Defendants within the course and scope of his employment.

[17] The mother of A. W advised the Defendants on February 17, 2005 in writing that Webb was one of two potential fathers of A. W.

[18] On or about, April 5, 2005, Webb was advised by the Florida Department of Revenue, Child Support Enforcement Program, in writing, that it would be necessary for him to submit to a DNA Genetic test to determine the paternity of A.W.

[19] Webb submitted to said test on April 7, 2005.

[20] The DNA Genetic test results were then verified by Laboratory Corporation of America and the Defendants received the test results within four (4) weeks of April 7, 2005.

[21] At that time, Webb still lived at the address he gave the Florida Department of Revenue in ST. Lucie County, Florida.

[22] However, for some unexplainable reason he was never notified of any court proceedings concerning his son for a period of approximately two (2) and one-half (1/2) years.

[23] Webb made repeated phone calls to the Florida Department of Revenue inquiring about the DNA test results but was never given any information.

[24] In July 2005, Webb purchased a home in Belleview, Florida and moved to Belleview in August 2005.

[25] Webb changed his address with the Florida Department of Motor Vehicles on his Florida Drivers license.

[26] His new address was entered on the internet and could be found in less than a minute.

[27] Webb advised the Florida Department of Revenue of his change of address.

[28] On December 30, 2005, Webb appeared in person at the Florida Department of Revenue in Ft. Pierce, Florida to inquire about the results of the DNA test and his paternity rights. He was advised that his case was closed. Webb assumed the other man listed by the mother of A. W. had been determined to be the natural father.

[29] A. W. was immediately placed with one of the nurses that attended his birth as the foster care provider.

[30] The foster care provider gave A. W. to her sister who began actively trying to adopt A. W. This foster care provider was unlicensed, uncertified, untrained, and unsupervised by the Defendants. A. W. suffered lack of medical care and some injuries while in her care.

[31] The Defendants submitted a case plan to the court in 2005 on A. W. without notifying the father Webb and without making diligent search and inquiry to determine the paternity of A. W. or the location of Webb.

[32] Then a series of judicial review hearings were conducted on the case by the Circuit Court as required by Florida Statute.

[33] At each review hearing, the Defendants submitted a false and fraudulent affidavit pursuant to State statute that claimed the father of A. W. could not be located. The truth of the matter is that A. W. had not been genetically tested by the Defendants during this time in order to determine the true parentage of A. W.

[34] During this period of time, A. W. had not been genetically tested to determine if Webb was the father and was not so tested for thirty one (31) months into foster care.

[35] On or about October 31, 2007, Webb was served by the sheriff with a Petition prepared and filed by the Defendants styled: "A PATERNITY TERMINATION ADVISORY."

[36] A. W. was finally genetically tested by the Defendants on November 15, 2007, some thirty one (31) months after the child was placed in the foster care system of the State of Florida by the Defendants.

[37] The Defendants received the test results on November 26, 2007.

[38] The results showed conclusively that Webb was the natural father of A. W.

[39] The Florida Department of Revenue notified Webb in writing of the DNA test results on November 29, 2007.

[40] The above notification by letter was addressed to Webb at his current address of 7216 SE 120th St., Bellevue, Florida 34420-4604.

[41] The Florida Department of Revenue had been in possession of the above address for Webb since August 2005.

[42] The Petition sought judicial intervention to terminate the parental rights of Webb on the basis of abandonment of A. W.

[43] Webb appeared at the Circuit Court in St. Lucie County, Florida in January 2008 when the Petition was set for a hearing.

[44] In this proceeding as in all other proceedings in the dependency case of A. W., the Defendants, their agents, servants and employees while acting within the course and scope of their employment, filed false, fraudulent and misleading affidavits with the Court stating that the father of A. W. could not be located.

[45] After considering all the evidence at the termination proceedings, the Circuit Judge immediately gave full custody of A. W. to Webb through a series of transitory visitation periods that culminated in full and complete custody in April 2008.

[46] Thus, through the gross negligence of the Defendants, Webb was deprived of the care, control and custody of his natural son for a period of thirty three (33) months.

[IV]
ACTS CONSTITUTING BOTH GROSS AND SIMPLE NEGLIGENCE

[47] The Complainants reiterate all allegations contained in paragraphs one (1) through forty-six (46) of this Complaint in all subsequent paragraphs of Count IV as if included herein verbatim.

[48] The Defendants, their agents, servants and employees, while acting within the course and scope of their employment committed the following acts of negligence.

[a] The Defendants failed, refused and neglected to determine the whereabouts of Webb in a reasonable manner.

[b] The Defendants failed, refused and neglected to follow the statutory provisions of Florida Statute 39.502 (1) that requires all parents of children subject to dependency litigation be notified of said litigation and all judicial hearings conducted thereto.

[c] The Defendants failed, refused and neglected to follow the provisions of Florida Statute 39.502 that required the Defendants to conduct a diligent search and inquiry for the parents of dependent children in their care, custody and control.

[d] The Defendants failed, refused and neglected to comply with the written policies, procedures, rules and regulations of their own agency by failing to conduct a diligent search and inquiry for the parents of dependent children in their care, custody and control according to the specific steps outlined in the policies and procedures.

[e] The Defendants failed, refused and neglected to properly supervise the foster parent atmosphere of A. W.

[f] The Defendants failed, refused and neglected to investigate the claims of potential abuse of A. W. while he was in foster care.

[g] The Defendants failed, refused and neglected to keep the proper medical records on A. W. while he was in foster care.

[h] The Defendants deliberately and willfully and with wanton disregard for the rights of Webb and A. W. submitted to courts false, fraudulent and misleading affidavits concerning the location and identity of the natural father of A. W.

[i] The Defendants deliberately and willfully and with wanton disregard for the rights of Webb and A. W. failed to notify a court of competent jurisdiction of the location and identity of Webb and his true relationship with A. W.

[j] The Defendants failed, refused and neglected to submit A. W. to a proper DNA Genetic Test to determine paternity in a proper and reasonable period of time after obtaining custody of A. W. even though they were aware Webb had been

named as one of the potential fathers by the mother and that Webb had submitted to a DNA Genetic Testing procedure to determine paternity.

[V]
THE DAMAGES SUFFERED BY WEBB AND A.W.

[49] The Complaints reiterate in subsequent portions of Count V of the complaint all allegations contained in paragraphs one (1) through forty eight (48) as if included herein verbatim.

[50] As a direct and proximate result of the acts and omissions of the Defendants, their agents, servants and employees acting within the course and scope of their employment the complainant Webb suffered mental anguish and emotional anxiety, loss of diminishment of life, the violation of a fundamental liberty interest in the care, custody and control of his natural child and loss of companionship with his natural child for a substantial, significant and unnecessary period of time.

[51] As a direct and proximate result of the acts and omissions of the Defendants, their agents, servants and employees acting within the course and scope of their employment, the complaint A. W. suffered a loss of diminishment of life, the care of his natural father, mental and emotional damage, temporary and permanent in that he has been diagnosed with Reactive Attachment Disorder, a permanent mental, emotional and psychological condition, physical injury, pain and suffering.

[VI]
PUNITIVE DAMAGES

[51] The Complainants reiterate all allegations in the subsequent portions of Count VI of this Complaint contained in paragraphs one (1) through fifty (50) as if included herein verbatim.

[52] The failure to abide by Florida Statute and the internal procedures, policies, rules and regulations of the Defendants in the diligent search and inquiry provisions of said Statute and policies constitutes "GROSS NEGLIGENCE" OR "OUTAGEOUS CONDUCT" because such negligence shows a willful and wanton disregard for the rights and privileges of Webb and A. W.

[53] The Defendants decision to file with the Circuit Court in the State dependency action of A. W. false, fraudulent and misleading affidavits of diligent search and inquiry shows a complete, willful and wanton disregard for the rights of Webb and A. W.

[54] The Complainants are entitled to Punitive Damages as a direct and proximate result of the acts and omissions of the Defendants, their agents, servants and employees acting within the course and scope of their employment.

[VII]
JURY DEMAND

[55] The Complainants demand a jury to try the issues when joined.

WHEREFORE, The Complainants Demand:

[1] That the Court conduct a pre-trial hearing according to Florida Statute to determine the right of the Complainants to seek and recover Punitive Damages against the Defendants, individually, jointly and severally.

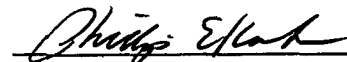
[2] To enter a judgment for compensatory money damages against the Defendants, individually, jointly and severally for the benefit of the Complainant Webb.

[3] To enter a judgment for compensatory money damages against the Defendants, individually, jointly and severally for the benefit of the Complainant A. W.

[4] To enter a judgment for punitive money damages against the Defendants, individually, jointly and severally for the benefit of the Complainant Webb.

[5] To enter a judgment for punitive money damages against the Defendants, individually, jointly and severally for the benefit of the Complainant A. W.

[6] For such other relief to which the Complainants might be entitled to receive according to the law and in conformity with the facts.


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November 3, 2008

Department of Financial Services

200 E. Gaines Street

Tallahassee, Florida 32399-0300

Re: Webb/Williams complaint

To Whom it May Concern:

This firm represents Jackie Webb and Amir Williams, a minor

Factual Background:

On February 9, 2005, Amir Williams was born prematurely at St. Mary's hospital in West Palm Beach. The hospital and the attending nurse called the abuse hotline, immediately following his birth.

The child was placed into protective custody immediately upon birth based on the department's investigator's findings that "the child was born at 1/4 lb and was addicted to cocaine".

During the course of the investigation, the nurse explained to the investigator that she knew a person who would be interested in adoption.

Upon the mother's phone call to the father that the child was born and was in critical condition, the father immediately went to the hospital to be with his son on February 16, 2005. The father was told, and the records support, that the child was NOT born with drugs in his system. Despite this, the DCF has used this allegation, which is intentionally false and misleading, to further court proceedings in dependency and to the detriment of the child.

[ExA]

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The father continued to visit with the child until the end of March 2005. At which time he was advised that he needed to prove paternity.

At the hospital the father gave the hospital his emergency information and was instructed that he needed to complete a DNA screening as there were two prospective fathers. The father was tested as instructed on April 7th, 2005. The father kept in regular contact with the hospital staff. After approximately 6 weeks the father called to inquire as to the results of the DNA test until he was told that no more information can be given out.

After approximately 6 weeks, the father called to inquire as to the results of the DNA test. He was then advised that they were unable to reach the mother to get permission to test the baby. The father was told as soon as they received the results they would be in touch.

He was then advised that they were unable to reach the mother to get permission to test the baby. They told the father that as soon as they received the results they would be in touch.

The father called again on June 10th 2005 and was again told that they did not have the results. The record reflects that on June 1, 2005 the department created a case plan which listed the father by name. However, the father was never notified of this case plan or any other proceeding concerning the child, nor was he contacted by the protective investigator and interviewed as required by F.S. § 39.301.

In July 2005, the father purchased a home in Belleview, Florida; he notified the courts of this move and advised them that he still had the same cellular number. The father listed his home phone number as well. He had his driver's license changed over and had his home phone number listed just in case. He did this in order to be very accessible. He then filed for homestead and was listed with that department as well. The father's name and current address and current phone number can be found with a simple Google search in approximately .017 seconds.

The father called again in August 2005 and was again told that the mother was not able to be reached. At this point he asked "What happens in the event the mother is not found?" he was told that a Court order would then be issued to test the baby.

As of this date, the father was not allowed to see Amir, he was not even allowed to check on his condition, AND was now being given the run around to obtain the test results.

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On December 30th 2005, the father drove from Belleview to Ft. Pierce and went to the "Child Support Enforcement Center" in person; he was trying once again to find out about the results of the paternity test. He was told that the case was closed, but no one was able to tell him why. He was told that the matter would be looked into and someone would get back to him.

About a week later the father received a number on his cell (800 622-5437) which is the Child Support Enforcement Center. When he called them back, he was told that they did not know why he was called and that they had no other information for him other than that the case was closed.

At this point the father came to the conclusion that Amir must be the other prospective father's child. It was implied that a case would be closed unless he was the father. The father went about living his life until October 31, 2007.

Then on October 31, 2007, two and half years later, a Sheriff served the father, at his residence, with a "A PATERNITY TERMINATION ADVISORY" SUMMONS. It stated that the father could not be reached. This is a deliberate untruth. There is no evidence in the record that indicates that there was any attempt to contact the father. The grandmother called the DCF worker to gather more information. The grandmother was told by a Ms. Alexander (case manager) that Amir had not yet been tested and was going to be tested on either November 15th or November 29th, depending on the Lab's availability. This was also the first time that the father had known that he was still potentially the father of the child Amir. The DCF worker stated that the child had been in a foster home all this time. The record reflects that the department had Jackie Webb's information at all times and retrieved a complete report in November 2006 that confirmed all of Mr. Webb's information, despite this, they still did not make contact.

When the case manager, Ms. Alexander, was asked how something like this could have happened, Ms. Alexander's response was that the previous case manager (Mr. Mark Holloway) had left the department and left all his work incomplete. Ms. Alexander said that it wasn't until she took over the case that it was noticed that another potential father existed. She further stated that somewhere in the system, the father had been lost or over looked.

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On November 16, 2007, the grandmother called Ms. Alexander to see if Amir's DNA had been taken. Ms. Alexander told the grandmother that it had been done and that it would take 4 weeks for the results which would mean that the results would most likely not be back in time for the Court date of December 4th. Ms. Alexander went on to say that "Benjamin Akins" had been excluded as Amir's father.

The father questioned the case manager as it did not make sense that the results on Benjamin could be established in one day, when Amir was just tested the day before. The father believes that the test was taken many months before and the results were not disclosed.

On December 1, 2007, the DNA test confirmed that our client was indeed the child's father.

The NICU attending nurse went through MAPP training in order to get certified as a licensed foster home for the purposes of adopting Amir. This is the same nurse that indicated her interest in his adoption.

The Foster mother then gave the child to her sister for the purposes of allowing her sister to adopt Amir. The record does not reflect much involvement by Debra Jenkins but reflects Christy Williams in numerous documents acting in the capacity as Amir's mother. She actually went as far as telling some doctors that she was either his mother or his foster mother. Christie William stated to the father that she did this (got licensed) just for Amir. Mrs. Williams stated that she is a stay at home mom. Mrs. Williams stated that she was under the impression that Amir was up for adoption. It should be noted that the father later found out that Christy Williams not only was raising Amir, but was not a licensed foster parent at all, but rather someone who the foster mother left the child with in order to help her adopt Amir. Apparently Christi Williams could not pass an adoptive homestudy, so her sister took the child, and planned on allowing the child to be adopted by Christy Williams once his adoption was complete and DCF was out of the picture.

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Christy Williams told the father that she visited Amir in Sebastian (where Amir was sent following coming out of St. Mary's NICU). Following the Advisory Hearing, she then disclosed that she had Amir from December 2005 until present day.

The father was also informed by Ms. Alexander that "Benjamin" had been excluded in May of 2007, many months previously. Ms. Alexander stated that Benjamin's DNA was taken from another area which is why both were not done together. There is no excuse as to why the DNA test was not conducted simultaneously. "Both" prospective father's were listed together. The DCF clearly went to great lengths to obtain a DNA test on the other man, but failed to conduct a due diligence search for the other prospective father.

Previously, at the Advisory hearing, (December 4th), Mrs. Christy Williams (who came to that hearing alone) presented herself to the father as Amir's Foster mother. Later at the Settlement Hearing (January 9th 2008) Ms. Williams recanted this, and stated that she is Amir's baby sitter and that it is her sister Ms. Debra Jenkins that is Amir's Foster mother.

Ms. Alexander was stated to have resigned following the Advisory Hearing. This was stated by Mr. Famous Erwin (new case manager).

The father was given a case plan that was for reunification. Because he was the non offending parent, it consisted of visitation with Amir to get him accustomed to his family. He was given 9 weeks of the following: three (3) weeks of short supervised visits, three (3) weeks of short unsupervised visits and three (3) weekend visits. This created an undue hardship on the father as he lived 200 miles away, however, he never missed nor was he ever late for a visit.

The father was subjected to "criminal background checks" and had to be "finger printed" and he had to have a home study done. He passed everything. He then was forced to hire an Attorney because he was not entitled to legal aide.

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After the first 2 visits, it was observed that Amir calls Christy "MOMMY" and calls Christy's husband "DADDY". Amir calls the Foster mother, Debra Jenkins "AUNTIE". Amir did not know his given name. He was being taught that his name was "JONATHAN" by Christy Williams (baby sitter/mommy). The child believes that Christy Williams and her husband are his parents. Christy Williams explained this as she and her husband were convinced that the adoption would go through and had started changing his name so that he could get used to it.

This was ultimately proven and was excused by the department. The excuse given was that Amir spends most of his time with Christy Williams and her family. This was stated by both Christy Williams and Debra Jenkins, and that Amir became accustomed to calling the babysitter and her husband "MOMMY and DADDY". When this was told to Mr. Erwin, his response was *"You'll be getting Amir soon so don't worry"*.

DCF was aware of these arrangements and did nothing about it.

On the father's first unsupervised visitation it was brought to his attention by "Ms. Christy Williams" that Amir has TWO marks on his buttocks. Ms. Christy Williams told him that the Doctor's think they are possible birthmarks. Ms. Christy Williams said that one was small and the other was big. She went on to say that they were documented and they didn't hurt Amir. However, it was later discovered that the marks were not birthmarks. Additionally, there is no documentation in the records that recorded these large scars at all. In fact, once the father started documenting the large scars, they started dissolving and healing, which indicated that they were fresh, unexplainable, serious injury to the child. The department has no explanation for the scars. The doctors had not noted any scarring, cuts, laceration or any other wound on the child's body, leaving the child with these injuries, possibly caused by the non-licensed foster parent. The department failed to conduct an investigation as to the cause of these injuries, leaving the child at risk while under their protective supervision.

When this was told to Mr. Erwin (case manager) on February 28th 2008, he asked the father to fax over a copy of the pictures he had taken along with the conversation regarding these marks. The father complied. A week later, Mr. Erwin told the father that they didn't come thru clear and he asked him to mail them to him. The father complied. It wasn't until March 18th

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(Tuesday) that Mr. Erwin told the father that he was seeing Ms. Jenkins that evening and would check into this. The father asked Mr. Erwin, if his records showed any documentation about this. Mr. Erwin said "No and that the agency should have been advised of this by the Foster mother".

Mr. Erwin called the father on March 19th, after speaking to the Foster mother/Ms. Jenkins. Mr. Erwin told me that Ms. Jenkins told him that "it happened at the hospital where Amir was born and that it was a common occurrence. That cleaning fluids drip, and causes burns on the babies." There is no indication in the medical record that this occurred and/or treated.

At the custody hearing, Mr. Erwin told the Judge that it was documented. The record reflects otherwise. Mr. Erwin told the father that Ms. Jenkins did not bring the green book with her. However, the father and grandmother saw the green book in her hand during the court session. There is no documentation in the record to reflect this conversation. The Judge ordered that it be on record so that the father wouldn't be blamed for causing these scars to the child. As of today's date the father has not received a copy of the green book which contains the child's extensive medical record.

The father reported to Mr. Erwin that every time they (the father and grandmother) received Amir he was coughing and had a runny nose. The father told Mr. Erwin, that he believed that Christy Williams was causing the child's sickness by overmedicating the child with nebulizer treatments_(by giving him too much). Mr. Erwin immediately said "Christy would never do such a thing". The record demonstrates otherwise. Again the department failed to conduct an investigation.

The father believes that Ms. Christy Williams was deliberately giving Amir excessive nebulizer treatments to make it appear that he was getting sick while at the father's home, in attempt to prevent the reunification of the father and child and in furtherance of the adoption that she was counting on.

After a careful review of the record, the following findings have been made, pursuant to actual record evidence:

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The DCF investigator knew or should have known that the prospective father, Jackie Webb, was available to care for the child at all times.

The record indicates that on or before June 1, 2005, while the child was still in the hospital, under protective supervision, that the department had the name and phone number of the child's father, Jackie Webb.

The department made no attempt to contact the father, although having adequate opportunity and legal responsibility to do so.

The department falsified and/or altered official documents and claimed that the child was born addicted to cocaine. There is no evidence in the record that indicates that this is true. To the contrary, the child's medical record specifically states that he was tested and had zero drugs in his system. This information was put into the record as a finding of fact and traveled for three years under the premise of its truthfulness.

The department has specific rules that pertain to locating absent parents of children in their custody through a "Due Diligence Search". There is no evidence in the record that this was completed until November of 2006. Despite having the father's current information, the department failed to contact the father until November of 2007.

The department had in their possession the DNA since April 2005 of the father and failed to present it to the court for the establishment of paternity and in doing so allowed the child to languish in foster care, while having a competent and nonabusive father readily available to care for the child.

The Department failed to properly train and supervise its employees to the detriment of the child and his family.

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The department failed to properly supervise the child's placement and allowed the child to be in the possession of a non licensed caregiver for the purposes of adoption, when the child was reported to be living under the care and supervision of a licensed, treatment level, foster home and while having full knowledge that a non offending parent of the child had not been properly served or notified of the child's existence.

The department failed to investigate the claims of potential abuse while in the care of the non-licensed foster parent.

The department knew or should have known that the babysitters had changed the child's name without the permission or knowledge of his parents and had the child calling them mommy and daddy, to the detriment of the child.

The department violated its own policy and procedures, to the detriment of the child and his family.

The attorney for the department, Sally Savage, filed false information with the court, in an attempt to secure a fraudulent adoption.

The department failed to provide the father a copy of the entire record upon his request.

The department failed to keep adequate medical records and vaccination records on the child. In doing so, subjected the child to duplicative services and treatments and procedures that the child had previously demonstrated adverse reactions to, namely cardiac arrest.

The department submitted fraudulent information to the court to secure order's overriding the need for parental consent for medical care and invasive surgical procedures by stating that neither parent was available to consent. They never called the mother. The mother happened to call the hospital after Amir was transferred per DCF record.

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The child was injured while in the departments care, custody and control.

The department failed to inform the court of the father's known addresses.

The department and its agents, altered, modified, and falsified official documents. They further have omitted information from the records, to the child's detriment.

The department has demonstrated a complete disregard for the health, well being and safety of the child.

Due to the Department of Children and Families' negligence the father and child lost three years of companionship, love and contact, which is the lifetime of the child, not to mention the extreme emotional damage that has occurred to the family and the child.

The child and his family have suffered irreparable harm and demand is hereby made for the sum of \$16,000,000.00. This letter shall serve as Plaintiff's intent to sue for damages suffered as a result of the department's negligence, pursuant to Florida Statutes §768.28. This offer is good for 30 days from the receipt of this notice.

Please feel free to call me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip E. Kuhn", written in a cursive style.

Phillip E. Kuhn

PEK/nsk



Kuhn & Hutto, P.L.

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November 3, 2008

Department of Children and Families

Mr. Gary Sheldon

1317 Winewood Boulevard

Tallahassee, Florida 32399-0700

RE: Webb/Williams complaint

To Whom it May Concern:

This firm represents Jackie Webb and Amir Williams, a minor

Factual Background:

On February 9, 2005, Amir Williams was born prematurely at St. Mary's hospital in West Palm Beach. The hospital and the attending nurse called the abuse hotline, immediately following his birth.

The child was placed into protective custody immediately upon birth based on the department's investigator's findings that "the child was born at 1/4 lb and was addicted to cocaine".

During the course of the investigation, the nurse explained to the investigator that she knew a person who would be interested in adoption.

Upon the mother's phone call to the father that the child was born and was in critical condition, the father immediately went to the hospital to be with his son on February 16, 2005. The father was told, and the records support, that the child was NOT born with drugs in his system. Despite this, the DCF has used this allegation, which is intentionally false and misleading, to further court proceedings in dependency and to the detriment of the child.

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The father continued to visit with the child until the end of March 2005. At which time he was advised that he needed to prove paternity.

At the hospital the father gave the hospital his emergency information and was instructed that he needed to complete a DNA screening as there were two prospective fathers. The father was tested as instructed on April 7th, 2005. The father kept in regular contact with the hospital staff. After approximately 6 weeks the father called to inquire as to the results of the DNA test until he was told that no more information can be given out.

After approximately 6 weeks, the father called to inquire as to the results of the DNA test. He was then advised that they were unable to reach the mother to get permission to test the baby. The father was told as soon as they received the results they would be in touch.

He was then advised that they were unable to reach the mother to get permission to test the baby. They told the father that as soon as they received the results they would be in touch.

The father called again on June 10th 2005 and was again told that they did not have the results. The record reflects that on June 1, 2005 the department created a case plan which listed the father by name. However, the father was never notified of this case plan or any other proceeding concerning the child, nor was he contacted by the protective investigator and interviewed as required by F.S. § 39.301.

In July 2005, the father purchased a home in Belleview, Florida; he notified the courts of this move and advised them that he still had the same cellular number. The father listed his home phone number as well. He had his driver's license changed over and had his home phone number listed just in case. He did this in order to be very accessible. He then filed for homestead and was listed with that department as well. The father's name and current address and current phone number can be found with a simple Google search in approximately .017 seconds.

The father called again in August 2005 and was again told that the mother was not able to be reached. At this point he asked "What happens in the event the mother is not found?" he was told that a Court order would then be issued to test the baby.

As of this date, the father was not allowed to see Amir, he was not even allowed to check on his condition, AND was now being given the run around to obtain the test results.

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On December 30th 2005, the father drove from Belleview to Ft. Pierce and went to the "Child Support Enforcement Center" in person; he was trying once again to find out about the results of the paternity test. He was told that the case was closed, but no one was able to tell him why. He was told that the matter would be looked into and someone would get back to him.

About a week later the father received a number on his cell (800 622-5437) which is the Child Support Enforcement Center, When he called them back, he was told that they did not know why he was called and that they had no other information for him other than that the case was closed.

At this point the father came to the conclusion that Amir must be the other prospective father's child. It was implied that a case would be closed unless he was the father. The father went about living his life until October 31, 2007.

Then on October 31st 2007, two and half years later, a Sheriff served the father, at his residence, with a "*A PATERNITY TERMINATION ADVISORY*" SUMMONS. It stated that the father could not be reached. This is a deliberate untruth. There is no evidence in the record that indicates that there was any attempt to contact the father. The grandmother called the DCF worker to gather more information. The grandmother was told by a Ms. Alexander (case manager) that Amir had not yet been tested and was going to be tested on either November 15th or November 29th, depending on the Lab's availability. This was also the first time that the father had known that he was still potentially the father of the child Amir. The DCF worker stated that the child had been in a foster home all this time. The record reflects that the department had Jackie Webb's information at all times and retrieved a complete report in November 2006 that confirmed all of Mr. Webb's information, despite this, they still did not make contact.

When the case manager, Ms. Alexander, was asked how something like this could have happened, Ms. Alexander's response was that the previous case manager (Mr. Mark Holloway) had left the department and left all his work incomplete. Ms. Alexander said that it wasn't until she took over the case that it was noticed that another potential father existed. She further stated that somewhere in the system, the father had been lost or over looked.

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On November 16th 2007, the grandmother called Ms. Alexander to see if Amir's DNA had been taken. Ms. Alexander told the grandmother that it had been done and that it would take 4 weeks for the results which would mean that the results would most likely not be back in time for the Court date of December 4th. Ms. Alexander went on to say that "Benjamin Akins" had been excluded as Amir's father.

The father questioned the case manager as it did not make sense that the results on Benjamin could be established in one day, when Amir was just tested the day before. The father believes that the test was taken many months before and the results were not disclosed.

On December 1, 2007, the DNA test confirmed that our client was indeed the child's father.

The NICU attending nurse went through MAPP training in order to get certified as a licensed foster home for the purposes of adopting Amir. This is the same nurse that indicated her interest in his adoption.

The Foster mother then gave the child to her sister for the purposes of allowing her sister to adopt Amir. The record does not reflect much involvement by Debra Jenkins but reflects Christy Williams in numerous documents acting in the capacity as Amir's mother. She actually went as far as telling some doctors that she was either his mother or his foster mother. Christie William stated to the father that she did this (got licensed) just for Amir. Mrs. Williams stated that she is a stay at home mom. Mrs. Williams stated that she was under the impression that Amir was up for adoption. It should be noted that the father later found out that Christy Williams not only was raising Amir, but was not a licensed foster parent at all, but rather someone who the foster mother left the child with in order to help her adopt Amir. Apparently Christi Williams could not pass an adoptive homestudy, so her sister took the child, and planned on allowing the child to be adopted by Christy Williams once his adoption was complete and DCF was out of the picture.

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Christy Williams told the father that she visited Amir in Sebastian (where Amir was sent following coming out of St. Mary's NICU). Following the Advisory Hearing, she then disclosed that she had Amir from December 2005 until present day.

The father was also informed by Ms. Alexander that "Benjamin" had been excluded in May of 2007, many months previously. Ms. Alexander stated that Benjamin's DNA was taken from another area which is why both were not done together. There is no excuse as to why the DNA test was not conducted simultaneously. "Both" prospective father's were listed together. The DCF clearly went to great lengths to obtain a DNA test on the other man, but failed to conduct a due diligence search for the other prospective father.

Previously, at the Advisory hearing, (December 4th), Mrs. Christy Williams (who came to that hearing alone) presented herself to the father as Amir's Foster mother. Later at the Settlement Hearing (January 9th 2008) Ms. Williams recanted this, and stated that she is Amir's baby sitter and that it is her sister Ms. Debra Jenkins that is Amir's Foster mother.

Ms. Alexander was stated to have resigned following the Advisory Hearing. This was stated by Mr. Famous Erwin (new case manager).

The father was given a case plan that was for reunification. Because he was the non offending parent, it consisted of visitation with Amir to get him accustomed to his family. He was given 9 weeks of the following: three (3) weeks of short supervised visits, three (3) weeks of short unsupervised visits and three (3) weekend visits. This created an undue hardship on the father as he lived 200 miles away, however, he never missed nor was he ever late for a visit.

The father was subjected to "criminal background checks" and had to be "finger printed" and he had to have a home study done. He passed everything. He then was forced to hire an Attorney because he was not entitled to legal aide.

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After the first 2 visits, it was observed that Amir calls Christy "MOMMY" and calls Christy's husband "DADDY. Amir calls the Foster mother, Debra Jenkins "AUNTIE". Amir did not know his given name. He was being taught that his name was "JONATHAN" by Christy Williams (baby sitter/mommy). The child believes that Christy Williams and her husband are his parents. Christy Williams explained this as she and her husband were convinced that the adoption would go through and had started changing his name so that he could get used to it.

This was ultimately proven and was excused by the department. The excuse given was that Amir spends most of his time with Christy Williams and her family. This was stated by both Christy Williams and Debra Jenkins, and that Amir became accustomed to calling the babysitter and her husband "MOMMY and DADDY". When this was told to Mr. Erwin, his response was *"You'll be getting Amir soon so don't worry"*.

DCF was aware of these arrangements and did nothing about it.

On the father's first unsupervised visitation it was brought to his attention by "Ms. Christy Williams" that Amir has TWO marks on his buttocks. Ms. Christy Williams told him that the Doctor's think they are possible birthmarks. Ms. Christy Williams said that one was small and the other was big. She went on to say that they were documented and they didn't hurt Amir. However, it was later discovered that the marks were not birthmarks. Additionally, there is no documentation in the records that recorded these large scars at all. In fact, once the father started documenting the large scars, they started dissolving and healing, which indicated that they were fresh, unexplainable, serious injury to the child. The department has no explanation for the scars. The doctors had not noted any scarring, cuts, laceration or any other wound on the child's body, leaving the child with these injuries, possibly caused by the non-licensed foster parent. The department failed to conduct an investigation as to the cause of these injuries, leaving the child at risk while under their protective supervision.

When this was told to Mr. Erwin (case manager) on February 28th 2008, he asked the father to fax over a copy of the pictures he had taken along with the conversation regarding these marks. The father complied. A week later, Mr. Erwin told the father that they didn't come thru clear and he asked him to mail them to him. The father complied. It wasn't until March 18th

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(Tuesday) that Mr. Erwin told the father that he was seeing Ms. Jenkins that evening and would check into this. The father asked Mr. Erwin, if his records showed any documentation about this. Mr. Erwin said "No and that the agency should have been advised of this by the Foster mother".

Mr. Erwin called the father on March 19th, after speaking to the Foster mother/Ms. Jenkins. Mr. Erwin told me that Ms. Jenkins told him that "it happened at the hospital where Amir was born and that it was a common occurrence. That cleaning fluids drip, and causes burns on the babies." There is no indication in the medical record that this occurred and/or treated.

At the custody hearing, Mr. Erwin told the Judge that it was documented. The record reflects otherwise. Mr. Erwin told the father that Ms. Jenkins did not bring the green book with her. However, the father and grandmother saw the green book in her hand during the court session. There is no documentation in the record to reflect this conversation. The Judge ordered that it be on record so that the father wouldn't be blamed for causing these scars to the child. As of today's date the father has not received a copy of the green book which contains the child's extensive medical record.

The father reported to Mr. Erwin that every time they (the father and grandmother) received Amir he was coughing and had a runny nose. The father told Mr. Erwin, that he believed that Christy Williams was causing the child's sickness by overmedicating the child with nebulizer treatments_(by giving him too much). Mr. Erwin immediately said "Christy would never do such a thing". The record demonstrates otherwise. Again the department failed to conduct an investigation.

The father believes that Ms. Christy Williams was deliberately giving Amir excessive nebulizer treatments to make it appear that he was getting sick while at the father's home, in attempt to prevent the reunification of the father and child and in furtherance of the adoption that she was counting on.

After a careful review of the record, the following findings have been made, pursuant to actual record evidence:

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The DCF investigator knew or should have known that the prospective father, Jackie Webb, was available to care for the child at all times.

The record indicates that on or before June 1, 2005, while the child was still in the hospital, under protective supervision, that the department had the name and phone number of the child's father, Jackie Webb.

The department made no attempt to contact the father, although having adequate opportunity and legal responsibility to do so.

The department falsified and/or altered official documents and claimed that the child was born addicted to cocaine. There is no evidence in the record that indicates that this is true. To the contrary, the child's medical record specifically states that he was tested and had zero drugs in his system. This information was put into the record as a finding of fact and traveled for three years under the premise of its truthfulness.

The department has specific rules that pertain to locating absent parents of children in their custody through a "Due Diligence Search". There is no evidence in the record that this was completed until November of 2006. Despite having the father's current information, the department failed to contact the father until November of 2007.

The department had in their possession the DNA since April 2005 of the father and failed to present it to the court for the establishment of paternity and in doing so allowed the child to languish in foster care, while having a competent and nonabusive father readily available to care for the child.

The Department failed to properly train and supervise its employees to the detriment of the child and his family.

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The department failed to properly supervise the child's placement and allowed the child to be in the possession of a non licensed caregiver for the purposes of adoption, when the child was reported to be living under the care and supervision of a licensed, treatment level, foster home and while having full knowledge that a non offending parent of the child had not been properly served or notified of the child's existence.

The department failed to investigate the claims of potential abuse while in the care of the non-licensed foster parent.

The department knew or should have known that the babysitters had changed the child's name without the permission or knowledge of his parents and had the child calling them mommy and daddy, to the detriment of the child.

The department violated its own policy and procedures, to the detriment of the child and his family.

The attorney for the department, Sally Savage, filed false information with the court, in an attempt to secure a fraudulent adoption.

The department failed to provide the father a copy of the entire record upon his request.

The department failed to keep adequate medical records and vaccination records on the child. In doing so, subjected the child to duplicative services and treatments and procedures that the child had previously demonstrated adverse reactions to, namely cardiac arrest.

The department submitted fraudulent information to the court to secure order's overriding the need for parental consent for medical care and invasive surgical procedures by stating that neither parent was available to consent. They never called the mother. The mother happened to call the hospital after Amir was transferred per DCF record.

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